

Regulations of Commerce.

THE SOLA POWER POSSESSED BY CONGRESS—THE PORT OF NEW ORLEANS DEPENDANT IN THE CASE—A BILL PASSED BY THE UNITED STATES SUPREME COURT.

FROM THE NEW YORK TIMES.

WASHINGTON, June 25.—The following decision has been rendered by the Supreme Court of the United States:

No. 116.—*Robert W. Foster, plaintiff in error, vs. The Master and Wardens of the Port of New Orleans.*—In error to the Supreme Court of the State of Louisiana. The controversy arises out of an act of the Legislature of Louisiana, approved March 6, 1869. By the first section it was made the duty of the master and wardens of the port of New Orleans to offer their services to make a survey of the hatches of all sea-going vessels which should arrive at that port, and a penalty was prescribed for the neglect of this duty. The second section declares that when the master and wardens of the port of New Orleans refuse to make a survey of the hatches of any person other than the said master and wardens, or their legally-constituted deputy, to make any survey of the hatches of vessels coming to said port of New Orleans, or to make any survey of damaged goods coming on board of such vessels, whether such survey be made on board or on shore, or to give any certificate on orders for sale of such damaged goods, or to do any other of the acts and things prescribed by law for said master and wardens to do and perform, and the person doing such illegal and forbidden acts, his instructors and encouragers, shall be liable and bound to pay in full to the said master and wardens \$100 with damages, and was for failure to do so, and for other acts so done. The petition avers that Foster resides in the city of New Orleans, and has been and is continually violating the provisions of the act by making surveys of the hatches of sea-going vessels arriving at that port, and of damaged goods, and has been and is engaged in doing so, and performing the duties which belonged to the masters and wardens of the port. An injunction was prayed for. It was granted by the lower court, and the judgment was affirmed by the Supreme Court of the State. A writ of error was thereupon sued out by Foster, and the case is now before this court for review. The defendants have failed to enter their appearance, and no brief in their behalf has been submitted. We shall therefore devote but few remarks to the case. The Constitution of the United States, article 1, section 8, gives to Congress the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." That the provisions of this act are regulations of commerce is a proposition which requires no argument to support it. They are a regulation of commerce, and commerce in the ports to which they relate. Their enactment involved a power which belongs exclusively to Congress, and which a State could not, therefore, properly exercise. The Port Wardens (6th Cir. Ct.) have held that the act is unconstitutional, and that the master and wardens of a port within it should be entitled to demand and receive, in addition to their salary, the sum of \$5, whether called on to perform service or not, for every vessel arriving in that port, was a regulation of commerce, and, if the constitutional objection was well taken there, a *voida fortiori*, it is fatal here. The act is not in the sense of the Constitution an inspection law. The object of such laws is to certify the quantity and value of the articles inspected, whether imports or exports, for the protection of buyers and consumers. (Gibbons vs. Ogden, 9 Wheat, 207; Brown vs. Maryland, 12 Wheat, 419; Clinton vs. Northrup, 8 Cow, 46; Bouv. Law Dic., "Inspection.") Story's Const., sections 1,017, 1,024; Neilson vs. Garza, 2 Woods, 200.

The purpose of this act is to furnish evidence for the parties immediately concerned, and, where the goods are damaged, to provide for and regulate their sale. (Master and Wardens vs. Ship Haves, 6 Mo. Ann. Rep., 390.) Besides the unreasonable and oppressive character of the act as regards ship-owners and cargo owners, in violation of the rights of persons outside of these classes. If such a monopoly, sustained by such sanctions, may be validly given to the master and wardens, why may they not also, at prices not agreed upon by the parties nor according to the market value, but at rates arbitrarily fixed by them, be authorized exclusively to load and unload supplies, to furnish them with all needful supplies, and to perform all the services of consignees, commission merchants, and ship-brokers, touching incoming and outgoing cargoes? Each of these imagined cases is a parallelism to the same direction, and only another step in the same direction. The statute is declared void. Reversed. Mr. Justice Swayne delivered the opinion.

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INTERESTING TELEGRAPHIC NEWS.

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